

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 26, 2001

**D036921        In re Marriage of Vallejo**

The request for publication is denied.

**D038005        People v. Arberry**

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D038503        Songstad et al. v. Superior Court of Orange County et al./Nestande et al.**

It is ordered that the opinion filed November 26, 2001, is modified. There is no change in judgment.

**D038273        People v. Simon**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D033648        Sure Safe Industries, Inc., et al. v. McGrath RentCorp et al.**

In accordance with this court's order of August 6, 1999, staying this appeal as to Earth-Lok under title 11 United States Code section 362, Earth-Lok is severed from that of the other defendants. The order granting a new trial on the Cartwright Cause of action is reversed. The judgment is affirmed. Costs are awarded to McGrath and Scotsman. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D038202        Beal Bank, S.S.B. v. A&T Investments et al.**

The June 1999 order awarding attorney fees and costs to Beal is affirmed. Respondent shall recover its costs on appeal. Nares, J.; We Concur: Kremer, P.J., McIntyre, J.

**D036182        People v. Friery**

The matter is remanded to the trial court for imposition of sentence on count 3 alone, following which the trial court is to provide copies of an amended abstract of judgment to the appropriate authorities. In all other respects, the judgment is affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D037111        People v. Laino**

The ruling Laino's Arizona conviction did not constitute a strike is set aside, and the case is remanded to the trial court for further proceedings in accordance with this opinion. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D037758        Shaw v. ARC of San Diego**

The appeal is dismissed.

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November 27, 2001

**D036760        In re Raymundo M. a Juvenile**

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D038030        People v. Richards**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D037363        People v. Fisher**

Judgment affirmed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D037013        Retone v. Lazarus**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

**D037699        People v. Mitchell**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D037819        People v. Nicholas**

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D035748        Gutterud et al. v. Deveros et al./Murphy**

The judgment is reversed and the matter is remanded with directions that the trial court enter a new judgment consistent with this opinion. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D036898        Provenzano v. Department of Motor vehicles of the State of California**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.;  
We Concur: Nares, J., McDonald, J.

**D037588        People v. Harrison**

**D038078        People v. Harrison**

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D039075        Pratt v. Superior Court of San Diego County/Syntron Bioresearch, Inc.**

The petition is denied.

**D039086        Coleman v. The Superior Court of San Diego County/Coleman**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

November 28, 2001

**D038436 Powell v. Kesner**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed without costs to either party under California Rules of Court, rule 19(b). The remittitur is ordered to issue immediately.

**D038111 People v. Kinney**

Upon filing an abandonment of appeal, the appeal is dismissed.

**D037671 People v. Smith**

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D039082 People v. Breland**

On the court's own motion the above appeal, filed November 16, 2001, is dismissed.

**D039105 Yurosek v. Superior Court of Imperial County/Dewbre**

The petition is denied.

**D038738 In re Brice on Habeas Corpus**

The petition is denied.

**D036090 Beasley v. Bass**

The judgment is reversed and the order granting summary judgment is vacated. The court is directed to enter a new order denying Bass's motion for summary judgment and alternative motion for summary adjudication as to the second, third, fourth and fifth causes of action of Beasley's complaint, and granting the motion for summary adjudication as to the first cause of action. Beasley is awarded his costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

**D036652 Sarafa v. PC Quote, Inc.**

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D038198 Decker v. First American Title Insurance Company**

The judgment is affirmed. Costs on appeal are awarded to respondent. McIntyre, J.; We Concur: Kremer, P.J., Nares, J.

**D033446 People v. Rodrick**

The petition for rehearing is denied.

**D034649 Gustafson v. Marschall**

Affirmed. Gustafson to bear costs on appeal. Haller, J.; We Concur: Kremer, P.J., McIntyre, J.

**D038508 In re Charles T., a Juvenile**

The appeal is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

November 28, 2001 (Continued)

**D039108        RJS Industries, Inc., et al. v. Superior Court of San Diego County/Whipple et al.**  
The petition is denied.

**D037853        People v. Garcia**  
Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D038141        Williams v. Superior Court of San Diego County/People**  
The petition for writ of prohibition is denied. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.;  
I Concur: Nares, J.; I Dissent: McDonald, J. (opinion)

**D038775        In re Brazil on Habeas Corpus**  
The petition is denied.

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DIVISION ONE

November 29, 2001

**D036369        People v. Moore**

Affirmed. Haller, J.; We Concur: Kremer, P.J., Nares, J.

**D038140        In re K. C. a Juvenile**

The judgment is affirmed. McIntyre, J.; We Concur: Kremer, P.J., Benke, J.

**D037530        Hawkes v. Sommer**

The order is reversed to the extent it pertains to the levy upon Sommer's checking account at Wells Fargo Bank, and the matter is remanded for further proceedings consistent with this opinion. The probate court's other rulings of January 31, 2001, are affirmed; however, the order of March 7, 2001, is vacated and respondent is directed pursuant to rule 391 of the Rules of Court to prepare a written order that conforms to the probate court's January 31, 2001 minute order, with the exception of the ruling pertaining Sommer's checking account, which shall be omitted. Costs are awarded to appellant. McIntyre, J.; We Concur: Kremer, P.J., Benke, J.

**D036063        People v. Silva**

The judgment is affirmed. Nares, J.; We Concur: Kremer P.J., Haller, J.

**D036545        People v. France**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D038500        Mark F. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is dismissed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

**D035312        Moses et al. v. Richardson et al.**

The judgment is affirmed. Moses is awarded costs on appeal. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D034967        Araiza-Klier v. Teachers Insurance and Annuity Association et al./Beeson-Holcomb**

The order granting a new trial is affirmed. Benke, J.; We Concur: Kremer, P.J., McDonald, J.

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November 30, 2001

**D038073        In re Ethan R., a Juvenile.**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D038529        James W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

**D038960        Lourdes P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Lourdes P. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D036715        Dylan W., a Minor etc. v. Vista Unified School District**

The petition for rehearing is denied.

**D033965        Creative Captial Leasing Group LLC, v. Adam et al.**

The petition is denied.

**D039101        Dalton v. Superior Court of San Diego County/Ralphs Grocery Company**

The petition is denied.

**D037514        In re Nyianza M. et al., Juveniles**

The orders are affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D037427        People v. Quarles**

The order is affirmed. Kremer, P.J.; We Concur: Haller, J., Nares, J.

**D038567        Maricela R. v. Superior Court of Imperial County/Imperial County Department of Social Services**

The petition is denied. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

**D035848        People v. Crenshaw**

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., Haller, J.

**D037775        People v. Bates**

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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November 30, 2001 (Continued)

**D036263        People v. Buchanan**

Judgment affirmed. Nares, J.; We Concur: Kremer, P.J., Benke, J.

**D035661        People v. Poole**

The true findings under Penal Code section 667.9, subdivision (a) are reversed and the sentence enhancements under that statute are stricken. The remainder of the judgment is affirmed. The superior court is directed to amend the abstract of judgment accordingly and to forward a certified copy of the amended abstract to the Department of Corrections. Kremer, P.J.; We Concur: Benke, J., Haller, J.

**D039041        Advance Checking Inc. v. Superior Court of San Diego County/  
Bank of America, N.A.**

The petition is denied.